

COUNTY OF LOS ANGELES
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
2615 S. Grand Avenue, Suite 100
Los Angeles, CA 90007



United We Stand



Joseph N. Smith
Director

May 18, 2009

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

29

JUNE 9, 2009

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

**DEPARTMENT OF MILITARY AND VETERANS AFFAIRS: AGREEMENT WITH
THE CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS TO PROVIDE
VETERANS CLAIM SERVICES FOR THE DEPARTMENT OF VETERANS
AFFAIRS, VETERANS HOME OF CALIFORNIA, LANCASTER
(5th DISTRICT) (3 VOTES)**

SUBJECT:

Approve and authorize the Director of the Department of Military and Veterans Affairs to execute the contract with the California Department of Veterans Affairs (CDVA) to fund the Los Angeles County the amount of \$50,000 to provide veterans claim services for the CDVA Veterans Home of California, Lancaster.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve and authorize the Director of the Department of Military and Veterans Affairs to negotiate and execute the contract in substantially similar form to the attached Standard Agreement (Exhibits A, B, D, E, and Attachments 1) with the California Department of Veterans Affairs (CDVA) to fund the County the amount of \$50,000 to provide veterans claim services for the CDVA Veterans Home of California, Lancaster for the term effective upon Board approval through April 30, 2012. The costs of the salary and employee benefits for a part-time employee who will be assigned to this project will not exceed \$50,000 for the term of the contract and will be reimbursed by CDVA.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

This action will provide the CDVA claims assistance to the Veterans Home of California, Lancaster in accessing veterans' federal, state or local services.

Predictably, with the increasing number of returning Iraq/Afghanistan veterans, the aging veteran population, and the growing number and complexity of veteran's claims, there is a need to address added claims assistance to these veterans.

FISCAL IMPACT/FINANCING

The revenue received from this agreement will assist to offset a portion of the cost of an existing full-time Veterans Claims Assistant who will provide the services on a part-time monthly basis. The contract will continue through April 30, 2012 and funds from this program will be budgeted as part of the annual budget. There will be no net County cost involved in this assignment.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The CDVA contacted the Los Angeles Department of Military & Veterans Affairs (DMVA) in January 2009 requesting that the County provide assistance for the review of all new applicants to the CDVA, Veterans Home in Lancaster, as well as to assist any of the residents after admission to obtain veterans benefits.

Following discussions, DMVA received a draft agreement from CDVA in February 2009 to provide funding to the County in the amount not to exceed \$50,000 for veterans' claims assistance at the new CDVA Veterans Home in Lancaster.

The Agreement term will be in effect upon Board approval through April 30, 2012.

Approval of this Agreement will not involve any other Departments in the County and will not have any adverse impact on County employees.

Exhibits A, B, D, E and Attachments 1 of the draft agreement with CDVA provide additional information.

County Counsel and the Chief Executive Office have reviewed this Board letter.

CONTRACTING PROCESS

Advertisement of State/County agreements on the Countywide Office of Small Business website is not applicable.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The signing of this Agreement will enable the County to increase its outreach to the veteran community.

CONCLUSION

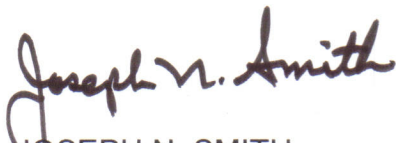
Upon approval of this request, please instruct the Executive Officer, Board of Supervisors, to send the original Board letter and attachments to:

Department of Military and Veterans Affairs
Attention: Joseph N. Smith
2615 S. Grand Avenue, Room 100
Los Angeles, California 90007

and an adopted stamped copy of the Board letter and attachments to:

Office of the County Counsel
Attention: Parjack Ghaderi, Paralegal
500 West Temple Street, Room 602
Los Angeles, Ca 90012

Respectfully submitted,


JOSEPH N. SMITH
Director

JNS: rb

Attachment (1)

C: Executive Officer, Board of Supervisors
County Counsel
Chief Executive Officer

STANDARD AGREEMENT

STD 213 (Rev 06/03)

AGREEMENT NUMBER

08LA0009

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME

Department of Veterans Affairs

CONTRACTOR'S NAME

County of Los Angeles

2. The term of this Agreement is: Upon Approval through April 30, 2012

3. The maximum amount of this Agreement is: \$ 50,000.00
Fifty thousand dollars and zero/cents.

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A – Scope of Work

1 Page(s)

Attachment I – Detailed Scope of Work

1 Page(s)

Exhibit B – Budget Detail and Payment Provisions

1 Page(s)

Attachment I – Budget Detail

XX Page(s)

Exhibit C* – General Terms and Conditions

GTC 307

Check mark one item below as Exhibit D:

☐ Exhibit D – Special Terms and Conditions (Attached hereto as part of this agreement)

4 Page(s)

☐ Exhibit D* Special Terms and Conditions

Exhibit E- Additional Provisions

3 Page(s)

Items shown with an Asterisk (*) are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

County of Los Angeles

BY (Authorized Signature)

➤

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

NEED SIGNATORY

ADDRESS

2615 S. Grand Avenue, Suite 100

Los Angeles, CA 90007

STATE OF CALIFORNIA

AGENCY NAME

Department of Veterans Affairs

BY (Authorized Signature)

➤

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Joy Hempstead, Assistant Deputy Secretary, Financial Services Division

ADDRESS

1227 O Street, Suite 100, Sacramento, CA 95814

California
Department of General Services
Use Only

☐ Exempt per _____

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

1. Contractor agrees to provide to Department of Veterans Affairs (CDVA), Veteran Home of California, Lancaster, Veterans Claim Representative services as described herein:

Assisting CDVA, VHC-Lancaster in providing veterans claim services and provide representation for the individual veteran as needed in accordance with the attached, Detailed Scope of Work.

2. The services shall be performed at:
Veteran Home of California Lancaster
45211 30th Street West
Lancaster, CA 93536
3. The services shall be provided as agreed, on a monthly basis, part time. A schedule will be determined based upon the home member census and needs.
4. The project representatives during the term of this agreement will be:

Contract Manager	Project Representative
State Agency: Department of Veterans Affairs	Contractor: County of Los Angeles
Name: Louis Koff	Name: Joseph Smith, Director
Phone: 818-742-1752	Phone: 213-744-4827
E-mail: Louis.Koff@cdva.ca.gov	E-mail:
Fax: 818-742-1759	Fax: 213-748-5473

Direct all contract inquiries to:

Contract Analyst	Contractor Representative
State Agency: Department of Veterans Affairs	Contractor: County of Los Angeles
Section/Unit: Office of Procurement/Contracts	Section/Unit: Military and Veterans Affairs
Attention: Malisa Price, Contract Analyst	Attention: Robert Saxon, Division Chief
Address: 1227 O Street, Suite 100 Sacramento, CA 95814	Address: 2615 S. Grand Avenue, Suite 100 Los Angeles, CA 90007
Phone: 916-651-3065	Phone: 213-744-4826
E-mail: Malisa.Price@cdva.ca.gov	E-mail: RSaxon@mva.lacounty.gov
Fax: 916-651-9089	Fax: 213-748-5473

5. Contractor Agrees to provide services in the manner specified herein and as detailed in Attachment 1, titled, "Detailed Scope of Work".

ATTACHMENT I
DETAILED SCOPE OF WORK

Contractor agrees to provide the following services to the CDVA, Veterans Home of California, Lancaster:

1. Veterans Claim Representative shall analyze, develop, and obtain evidence to properly present the veteran's claim to the U.S. Department of Veterans Affairs (USDVA).
2. Veterans Claim Representative shall review rating decisions for accuracy and proper application of the rating schedule and shall appeal adverse decisions when appropriate by initiating the formal appeal process with submission of the Notice of Disagreement.
3. Veterans Claim Representative shall appear as the veteran's counsel before Decisional Review Hearing Officers, Board of Veterans Appeals Administrative Law Judges, and other administrative boards as needed.
4. Veterans Claim Representative shall answer inquiries and correspondence from claimants, other Veterans Services Officers, and other interested parties.
5. Veterans Claim Representative shall develop reference sources to include USDVA regulations, procedure manual, and medical treatise.
6. Veterans Claim Representative shall participate in District Office training sessions and other training as provided by the USDVA, VA Medical Centers, County Veterans Service Officers Association, and the State Training Center. The Veterans Claim Representative shall also participate in In-Service training provided by the CDVA, VHC-Lancaster.
7. Veterans Claim Representative shall be available to advise and update the Home Administrator on veteran's claims matters as needed.
8. Veterans Claim Representative shall comply with the federal Health Insurance Portability and Accountability Act (HIPAA), the Home's compliance plan, as well as the State and Federal requirements for privacy protection. Veterans Claim Representative shall follow the CDVA, VHC-Lancaster's procedure(s) in compliance with HIPAA for protections of resident's privacy.
9. Veterans Claim Representative shall review all applications for admission to the CDVA, VHC-Lancaster to ensure eligibility for admission requirements are met by the veterans' service performance.

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified in Attachment I, titled, "Budget Detail", which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number, sufficient scope and detail to define the actual work performed, including a description of the activities of the Contractor, the hours allocated to those activities, and shall be submitted in duplicate not more frequently than monthly in arrears to:

<u>Original Signed Invoice</u>	<u>Approval Copy of Invoice</u>
CA Department of Veterans Affairs	CA Department of Veterans Affairs
VHC Accounting Office, Room 403	VHC-Lancaster, Contract Manager
P.O. Box 942895	45211 30 th Street West
Sacramento, CA 94295-001	Lancaster, CA 93004

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

ATTACHMENT I
BUDGET DETAIL

County to provide pay rate and benefits per hour, including any overhead for supervision.

FUNDING FOR A MAXIMUM OF 3 YEARS	\$ 50,000.00
ALLOCATION PER YEAR	\$ 16,666.68
ALLOCATION PER MONTH	\$ 1,388.89

COUNTY COST

<u>Direct Salaried Positions</u>	<u>Hours/Mo.</u>	<u>Hourly Cost</u>	<u>Monthly Cost</u>	<u>Annual Total</u>
Veterans Claims Supervisor	1	\$ 36.11	\$ 36.11	\$ 433.32
Veterans Claims Assistant II	44	\$ 22.75	\$ 1,001.00	\$ 12,012.00
Total Hours	<u>45</u>			
Total Salaries			\$ 1,037.11	\$ 12,445.32
Employee Benefits			\$ 351.78	\$ 4,221.36
Total Salaries & Employee Benefits			\$ 1,388.89	\$ 16,666.68

**ATTACHMENT I
BUDGET DETAIL**

County to provide pay rate and benefits per hour, including any overhead for supervision.

FUNDING FOR A MAXIMUM OF 3 YEARS	\$ 50,000.00
ALLOCATION PER YEAR	\$ 17,100.00
ALLOCATION PER MONTH	\$ 1,425.00

COUNTY COST

<u>Direct Salaried Positions</u>	<u>Hours/Mo.</u>	<u>Hourly Cost</u>	<u>Monthly Cost</u>	<u>Annual Total</u>
Veterans Claims Supervisor	2	\$ 36.11	\$ 72.22	\$ 866.64
Veterans Claims Assistant II	44	\$ 22.75	\$ 1,001.00	\$ 12,012.00
Total Hours	<u>46</u>			
Total Salaries			\$ 1,073.22	\$ 12,878.64
Employee Benefits			\$ 351.78	\$ 4,221.36
Total Salaries & Employee Benefits			\$ 1,425.00	\$ 17,100.00

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. Excise Tax

- A. The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. Settlement of Disputes

- A. The Contractor may dispute and appeal a decision or action by the State arising out of the Interpretation or administration of this Agreement. A written dispute notice shall be submitted to the Contract Manager within thirty (30) calendar days from the date the Contractor receives notice of the decision or action in dispute.
- B. The Contractor's dispute notice shall state, on the basis of the most accurate information then available to the Contractor, the following:
- 1) That it is a dispute pursuant to this Section.
 - 2) The date, nature and circumstances of the conduct, which is the subject of dispute.
 - 3) The names, telephone numbers, function, and activity of each contractor, subcontractor, State official, or employee involved in or knowledgeable about the conduct.
 - 4) The identification of any documents and the substance of any oral communications involved in the conduct. Copies of all identified documents shall be attached.
 - 5) The reason why the Contractor is disputing the conduct.
 - 6) The cost impact to the Contractor directly attributable to the alleged conduct, if any.
 - 7) The Contractor's desired remedy.
- C. The State and the Contractor agree to try to resolve all contractual issues by negotiation and mutual agreement at the Contract Manager level. The parties recognize that the implementation of this policy depends on open-mindedness, and the need for both sides to present adequate supporting information on matters in question. Any disputes concerning performance of this Contract will be decided by the Contract Manager in a written decision stating the factual basis for the decision. Before issuance of the Contract Manager's decision, informal discussions between the parties by the individuals who have not participated substantially in the matter in dispute will be considered by the parties in efforts to reach mutual agreement.
- D. The Contract Manager will render a decision or request additional substantiating documentation from the Contractor within thirty (30) days of receipt of the Contractor's appeal. A copy of the decision will be provided to the Contractor. The decision shall be final and conclusive unless, within thirty (30) days from the date of the decision, the Contractor files a written appeal addressed to the Secretary, California Department of Veterans Affairs.
- E. The Secretary's decision shall be final and conclusive unless the decision is arbitrary, capricious, and grossly erroneous or if any determination of fact is unsupported by substantiating evidence. The Secretary's decision will be in writing and may encompass facts, interpretations of the Contract, and determination or application of law. The Contractor may, prior to the Secretary's decision, present oral or documentary evidence, and arguments in support of the Contractor's appeal. The decision will either:
- 1) Find in favor of the Contractor, in which case the Secretary may:
 - (a) countermand the earlier conduct which caused the Contractor to file a dispute; or

EXHIBIT D
(Standard Agreement)

- (b) Reaffirm the conduct and, if there is a cost impact sufficient to constitute a change in obligations pursuant to the payment provisions, direct the State to comply with that Section.
- 2) Deny the Contractor's dispute and, where necessary, direct the manner of future performance; or
- 3) Request additional substantiating documentation in the event the information in the Contractor's dispute or appeal is inadequate to permit a decision to be made under paragraphs (a) or (b) above, and will advise the Contractor as to what additional information is required, and establish how that information will be furnished. The Contractor shall have thirty (30) days to respond to the Secretary's request for further information. Upon receipt of this additional requested information, the Secretary will have thirty (30) days to respond with a decision. Failure to supply additional information required by the Secretary within the time period specified above shall constitute waiver by the Contractor of all claims.
- 4) Attorney's fees and costs for any dispute or subsequent trial shall be borne by the respective parties. Trial by jury is waived by both parties, and any trial in superior or municipal court shall be by a judge alone. Any litigation arising out of this Contract shall be conducted in a California Court pursuant to California law.

F. Contractor shall continue with the responsibilities under this Agreement during any dispute.

3. Right to Terminate (SCM 7.85)

- A. The State reserves the right to terminate this agreement subject to thirty (30) days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.
- B. However, the agreement can be immediately terminated for cause. (Refer to GTC, Exhibit C, Item 7. Termination for Cause)

4. Potential Subcontractors

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

5. Evaluation of Contractor

- A. Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

6. Agency Liability

- A. The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of

EXHIBIT D
(Standard Agreement)

securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

7. Force Majeure

- A. Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failures of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of God such as earthquakes, floods, and other natural disasters such that performance is impossible.

8. Insurance Requirements

- A. When Contractor submits a signed contract to the State, Contractor shall furnish to the State a certificate of insurance, stating that there is commercial general liability insurance presently in effect for the Contractor of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined.
- B. The certificate of insurance will include provisions below in their entirety:
- 1) That the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.
 - 2) That the State of California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this contract are concerned.
 - 3) That the State will not be responsible for any premiums or assessment on the policy.
- C. Contractor agrees that the bodily injury liability insurance herein provided for shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, Contractor agrees to provide at least 30 days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one year. New certificates of insurance are subject to the approval of the Department of General Services, and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.
- D. The Department will not provide for nor compensate Contractor for any insurance premiums or costs for any type or amount of insurance.
- E. In addition, the certificate evidencing general liability must include evidence of one of the following if applicable to the service:
- 1) Pesticide/Herbicide Endorsement, OR
 - 2) An endorsement deleting the general liability pollution exclusion, OR
 - 3) A separate environmental/pollution liability policy with limits not less than \$1,000,000 covering bodily injury and property damage from pollution and related clean up costs incurred arising out of the work or services to be performed under this contract.
- F. Automobile Liability Insurance – The Contractor shall furnish to the State a certificate of insurance evidencing automobile liability insurance presently in effect for the Contractor for not less than \$1,000,000 per accident while utilizing a motor vehicle in the performance of this contract. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned

EXHIBIT D
(Standard Agreement)

motor vehicles. For contracted services involving transportation of hazardous materials, evidence of an MCS-90 endorsement is required.

- G. Worker's Compensation Insurance – The Contractor shall furnish to the State a certificate of insurance evidencing workers compensation insurance and employer's liability presently in effect with limits not less than \$1,000,000 by an insurance carrier licensed to write Workers' Compensation Insurance in California. Such certificate shall include the name of the carrier, policy inception and expiration dates. If the Contractor is self-insured for workers compensation, a certificate must be presented evidencing Contractor is a qualified self insurer in the State of California.
- H. Commercial General Liability – The Contractor shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with a \$2,000,000 annual policy aggregate. A "per project aggregate" endorsement is required. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability. The policy must name the State of California, its officers, agents, employees, and servants as additional insureds, but only with respect to work performed under the contract. This endorsement must be supplied under form CG20101185 or CG20371001 Form (B) or its equivalent and attached separately to the certificate of insurance.

9. HIPAA Privacy Protection

- A. For the purpose of this contract Contractor shall comply with the federal Health Insurance Portability and Accountability Act (HIPAA), as well as State and Federal requirements for privacy protection. The definitions and obligations required by the HIPAA Standards for Privacy of Individually Identifiable Health Information (U.S.C. 1320d et seq.), and its implementing regulations including but not limited to 45 Code of Federal Regulations parts 142, 160, 162, and 164, hereinafter referred to as the Privacy Rule, remain enforce and applicable for access to protected health information to include electronic protected health information.

EXHIBIT E
ADDITIONAL PROVISIONS

ADDITIONAL PROVISIONS

1. HIPAA Information

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

The following clauses are mandatory for Contractors, Contractor employees, Contractor subcontractors, and Contractor agents requiring access to and the use of protected health information in the performance of the functions, activities and tasks set forth in this contract. For the purpose of this contract, the terms Business Associate and Covered Entity are replaced by the terms Contractor and State respectively. The definitions and obligations required by the HIPAA Standards for Privacy of Individually Identifiable Health Information remain enforce and applicable for access to protected health information.

A. Use and Disclosure of Protected Health Information

Except as otherwise provided in this contract the Contractor, may use or disclose protected health information (PHI) to perform functions, activities or services as set forth in Exhibit A, entitled Scopes of Work, of this Contract for or on behalf of the State, provided that such use or disclosure does not violate the Health Insurance Portability and Accountability Act (HIPAA), (U.S.C. 1320d et seq.), and its implementing regulations including but not limited to 45 Code of Federal Regulations parts 142, 160, 162, and 164, hereinafter referred to as the Privacy Rule. The uses and disclosures of PHI may not exceed the limitations applicable to the State under the regulations except as authorized for management, administrative or legal responsibilities of the Contractor.

B. Further Disclosure of PHI

The Contractor shall not use or further disclose PHI other than as permitted or required by this Contract, or as required by law.

C. Safeguarding PHI

The Contractor shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Contract.

D. Unauthorized Use or Disclosure of PHI

The Contractor shall report to the State any use or disclosure of the PHI not provided for by this Contract or otherwise in violation of the Privacy Rule.

E. Agents and Subcontractors of the Contractor

The Contractor shall ensure that any agent, including a subcontractor, to which the Contractor provides PHI received from, or created or received by the Contractor on behalf of the State, shall comply with the same restrictions and conditions that apply through this Contract to the Contractor with respect to such information.

F. Access to PHI

At the request of the State, and in the time and manner designated by the State, the Contractor shall provide access to PHI in a Designated Record Set to an Individual or the State to meet the requirements of 45 CFR section 164.524.

EXHIBIT E
ADDITIONAL PROVISIONS

G. Amendments to Designated Record Sets

The Contractor shall make any amendment(s) to PHI in a Designated Record Set that the State directs or at the request of the Individual, and in the time and manner designated by the State in accordance with 45 Code of Federal Regulations section 164.526.

H. Documentation of Uses and Disclosures

The Contractor shall document such disclosures of PHI and information related to such disclosures as would be required for the State to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR section 164.528.

I. Accounting of Disclosure

The Contractor Associate shall provide to the State or an Individual, in the time and manner designated by the State, information collected in accordance with 45 CFR section 164.528, to permit the State to respond to a request by the Individual for an accounting of disclosures of PHI in accordance with 45 CFR section 164.528.

J. Records Available to State and Secretary

The Contractor shall make available records related to the use, disclosure, and privacy protection of PHI received from the State, or created or received by the Contractor on behalf of the State, to the State or to the Secretary of the United State Department of Health and Human Services for purposes of investigating or auditing the State's compliance with the privacy requirements, in the time and manner designated by the State or the Secretary. [NOTE: The HIPAA regulations do not require the Contractor to make their records available to the State for investigations or audits, only to the Secretary.]

K. Destruction of PHI

Upon termination of this Contract for any reason, the Contractor shall:

- Return all PHI received from the State, or created or received by the Contractor on behalf of the State required to be retained by the Privacy Rule; or
- Return or destroy all other PHI received from the State, or created or received by the Contractor on behalf of the State.

This provision shall apply to PHI in possession of subcontractors or agents of the Contractor. The Contractor, its agents or subcontractors shall retain no copies of the PHI. In the event the Contractor determines that returning or destroying the PHI is not feasible, the Contractor shall provide the State notification of the conditions that make return or destruction not feasible. If the State agrees that the return of the PHI is not feasible, the Contractor shall extend the protections of this Contract to such PHI and limit further use and disclosures of such PHI for so long as the Contractor, or any of its agents or subcontractors, maintains such PHI.

L. Amendments to Agreement

The Parties agree to take such action as is necessary to amend this Contract as necessary for the State to comply with the requirements of the Privacy Rule and its implementing regulations.

M. Mitigation of Disallowed Uses and Disclosures

EXHIBIT E
ADDITIONAL PROVISIONS

The Contractor shall mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of PHI by the Contractor in violation of the requirements of this Contract or the Privacy Rule.

N. Data Aggregation

The Contractor may provide data aggregation services related to the health care operation of the State.

O. Termination of Contracts

The State shall terminate this contract upon knowledge of a material breach by the Contractor of which the Contractor fails to cure